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a third gas burner and an adjacent fourth gas burner, said third and fourth gas burners adjacent said first and second gas burners;

a second grate section surrounding said third and fourth gas burners;

a bridge spacer grate section extending between said first grate section and said second grate section; a top surface of each of said first grate section, second grate section, and bridge spacer section comprising a substantially coplanar utensil supporting surface; and

a recessed surface portion extending from said utensil supporting surface between each adjacent gas burner.

#### Remarks

The Office Action mailed March 11, 2003 has been carefully reviewed and the foregoing amendment has been made in consequence thereof.

Claims 1-26 are now pending in this application. Claims 1-26 stand rejected.

The rejection of Claims 1-3, 5-13, 17-20, and 22-24 under 35 U.S.C. § 102(b) as being anticipated by Sparks, Des. 378,885 is respectfully traversed.

Sparks shows an ornamental design for a gas cooktop grate.

Claim 1 recites a cooking grate including "a frame comprising an exterior frame element; at least one interior frame element comprising a cooking utensil supporting surface, said cooking utensil supporting surface elevated from said exterior frame element; and at least one recessed surface extending from said cooking utensil supporting surface, a top of said recessed surface separated from a top of said cooking utensil supporting surface, thereby providing a gap for passage of a burner flame".

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Sparks neither describes nor suggests at least one recessed surface extending from the cooking utensil supporting surface. Moreover, Sparks neither describes nor suggests a top of the recessed surface separated from a top of the cooking utensil supporting surface, thereby providing a gap for passage of a burner flame. Nowhere, does Sparks show a recessed surface extending from the cooking utensil supporting surface. The area indicated by orange cross-hatched lines by the Examiner is simply empty space between internal frame elements, as shown in Figure 2 of Sparks, and empty space underneath internal frame elements, as shown in Figure 3 of Sparks. In addition, Claim 1 recites that recessed surface extends from the cooking utensil supporting surface. Sparks does not show a recessed surface extending from the cooking utensil supporting surface. For the reasons set forth above, Claim 1 is submitted to be patentable over Sparks.

Claims 2, 3, and 5 depend, directly or indirectly, from independent Claim 1. When the recitations of Claims 2, 3, and 5 are considered in combination with the recitations of Claim 1, Applicant submits that dependent Claims 2, 3, and 5 are likewise patentable over Sparks.

Claim 6 recites a grate assembly for a gas cooking appliance, the grate assembly including "at least one exterior frame element; at least one support finger extending from said exterior frame, said support finger comprising a top surface extending above said at least one exterior frame element; at least one interior frame element comprising a top surface extending above said at least one exterior frame element, said top surface of said interior frame element substantially coplanar with said top surface of said support finger; and at least one recessed surface extending from said top surface of said interior frame element, said recessed surface defining a clearance for passage of a burner flame".

Sparks neither describes nor suggests at least one recessed surface extending from the top surface of the interior frame element, the recessed surface defining a clearance for passage of a burner flame. The area indicated by orange cross-hatched lines by the Examiner is simply empty space between internal frame elements, as shown in Figure 2 of Sparks, and empty space underneath internal frame elements, as shown in Figure 3 of Sparks. In addition, Claim 1 recites that recessed surface extends from the top surface of the interior frame

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element. Sparks does not show a recessed surface extending from the top surface of the interior frame element. For the reasons set forth above, Claim 6 is submitted to be patentable over Sparks.

Claims 7-10 depend, directly or indirectly, from independent Claim 6. When the recitations of Claims 7-10 are considered in combination with the recitations of Claim 6, Applicants submit that dependent Claims 7-10 are likewise patentable over Sparks.

Claim 11 recites a grate assembly for a gas cooktop, the grate assembly includes at least one grate section including a substantially rectangular frame including "at least one exterior frame element comprising a top surface; at least one interior frame element comprising a top surface; and a cross member frame element comprising a top surface, said cross member frame element extending between said exterior frame element and said interior frame element, said top surfaces of said interior cross member frame element and said interior frame element substantially coplanar and elevated relative to a top surface of said exterior frame element; and at least one of said cross member frame element and said interior frame element comprising a recessed surface extending from said coplanar surface, said recessed surface comprising a flame clearance gap".

Sparks neither describes nor suggests a cross member frame element including a top surface, and the cross member frame element extending between the exterior frame element and the interior frame element. Moreover, Sparks neither describes nor suggests a recessed surface extending from a coplanar surface, the recessed surface including a flame clearance gap. Nowhere does Sparks show a cross member. The area indicated by blue dashed lines by the Examiner is not a cross member. Sparks does not show a cross member extending between the exterior frame element (shown in green) and the internal frame element (shown in yellow). In addition, Sparks does not show a recessed surface extending from a coplanar surface, and the recessed surface including a flame clearance gap. The area indicated by orange cross-hatched lines by the Examiner is simply empty space between internal frame elements, as shown in Figure 2 of Sparks, and empty space underneath internal frame elements, as shown in Figure 3 of Sparks. In addition, Claim 11 further recites that recessed surface extends from a coplanar surface, and the recessed surface includes a flame clearance

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gap. Sparks does not show a recessed surface extending from a coplanar surface, and the recessed surface includes a flame clearance gap. For the reasons set forth above, Claim 11 is submitted to be patentable over Sparks.

Claims 12 and 13 depend, directly or indirectly, from independent Claim 11. When the recitations of Claims 12 and 13 are considered in combination with the recitations of Claim 11, Applicants submit that dependent Claims 12 and 13 are likewise patentable over Sparks.

Claim 17 recites a gas fired cooktop including "at least a first gas burner and a second gas burner; and a grate assembly surrounding said first gas burner and said second gas burner, said grate assembly comprising an interior frame element extending between said first gas burner and said second gas burner, said interior frame element comprising a cooking utensil surface and a flame clearance recessed portion extending from cooking utensil surface".

Sparks neither describes nor suggests a flame clearance recessed portion. Moreover, Sparks neither describes nor suggests the flame clearance recessed portion extending from a cooking utensil surface. Nowhere, does Sparks show a recessed surface. The area indicated by orange cross-hatched lines by the Examiner is simply empty space between internal frame elements, as shown in Figure 2 of Sparks, and empty space underneath internal frame elements, as shown in Figure 3 of Sparks. In addition, Claim 17 recites that the recessed surface extends from the cooking utensil surface. Sparks does not show a recessed surface extending from the cooking utensil supporting surface. For the reasons set forth above, Claim 17 is submitted to be patentable over Sparks.

Claims 18-20 depend, directly or indirectly, from independent Claim 17. When the recitations of Claims 18-20 are considered in combination with the recitations of Claim 17, Applicants submit that dependent Claims 18-20 are likewise patentable over Sparks.

Claim 22 recites a gas fired cooktop including "a first gas burner and an adjacent second gas burner; a first grate section surrounding said first and second gas burners; a third gas burner and an adjacent fourth gas burner, said third and fourth gas burners adjacent said

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first and second gas burners; a second grate section surrounding said third and fourth gas burners; a bridge spacer grate section extending between said first grate section and said second grate section; a top surface of each of said first grate section, second grate section, and bridge spacer section comprising a substantially coplanar utensil supporting surface; and a recessed surface portion extending from said utensil supporting surface between each adjacent gas burner”.

Sparks neither describes nor suggests at least one recessed surface portion. Moreover, Sparks neither describes nor suggests the recessed surface portion extending from a utensil supporting surface between adjacent gas burners. Nowhere, does Sparks show a recessed surface portion. The area indicated by orange cross-hatched lines by the Examiner is simply empty space between internal frame elements, as shown in Figure 2 of Sparks, and empty space underneath internal frame elements, as shown in Figure 3 of Sparks. In addition, Claim 22 further recites that the recessed surface portion extends from a utensil supporting surface between adjacent gas burners. Sparks does not show a recessed surface portion extending from a utensil supporting surface between adjacent gas burners. For the reasons set forth above, Claim 22 is submitted to be patentable over Sparks.

Claims 23 and 24 depend, directly or indirectly, from independent Claim 22. When the recitations of Claims 23 and 24 are considered in combination with the recitations of Claim 22, Applicants submit that dependent Claims 23 and 24 are likewise patentable over Sparks.

For the reasons set forth above, Applicants respectfully request that the Section 102 rejection of Claims 1-3, 5-13, 17-20 and 22-24 be withdrawn.

The rejection of Claims 4, 14, 16, 21, 25, and 26 under 35 U.S.C. § 103 as being unpatentable over Sparks in Des. 378,885 is respectfully traversed.

Applicant respectfully submits that the Section 103(a) rejection of the presently pending claims is not a proper rejection. As is well established, the mere assertion that it would have been obvious at the time the invention was made to a person having ordinary skill

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in the art to have modified Sparks to obtain the claimed recitations of the present invention does not support a prima facie obvious rejection. Rather, each allegation of what would have been an obvious matter of design choice must always be supported by citation to some reference work recognized as standard in the pertinent art and the Applicant given the opportunity to challenge the correctness of the assertion or the notoriety or repute of the cited reference. Applicant has not been provided with the citation to any reference supporting the combination made in the rejection. The rejection, therefore, fails to provide the Applicant with a fair opportunity to respond to the rejection, and fails to provide the Applicant with the opportunity to challenge the correctness of the rejection.

Further, and to the extent understood, Sparks does not describe nor suggest the claimed combination. Specifically, Claim 4 depends from Claim 1, which recites a cooking grate including "a frame comprising an exterior frame element; at least one interior frame element comprising a cooking utensil supporting surface, said cooking utensil supporting surface elevated from said exterior frame element; and at least one recessed surface extending from said cooking utensil supporting surface, a top of said recessed surface separated from a top of said cooking utensil supporting surface, thereby providing a gap for passage of a burner flame".

Sparks neither describes nor suggests at least one recessed surface extending from the cooking utensil supporting surface. Moreover, Sparks neither describes nor suggests a top of the recessed surface separated from a top of the cooking utensil supporting surface, thereby providing a gap for passage of a burner flame. Nowhere, does Sparks show a recessed surface extending from the cooking utensil supporting surface. The area indicated by orange cross-hatched lines by the Examiner is simply empty space between internal frame elements, as shown in Figure 2 of Sparks, and empty space underneath internal frame elements, as shown in Figure 3 of Sparks. In addition, Claim 1 recites that recessed surface extends from the cooking utensil supporting surface. Sparks does not show a recessed surface extending from the cooking utensil supporting surface. For the reasons set forth above, Claim 1 is submitted to be patentable over Sparks.

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Claim 4 depends directly from independent Claim 1. When the recitations of Claim 4 is considered in combination with the recitations of Claim 1, Applicants submit that dependent Claim 4 is likewise patentable over Sparks.

Claims 14 and 16 depends directly or indirectly, from Claim 11, which recites a grate assembly for a gas cooktop, the grate assembly includes at least one grate section including a substantially rectangular frame including "at least one exterior frame element comprising a top surface; at least one interior frame element comprising a top surface; and a cross member frame element comprising a top surface, said cross member frame element extending between said exterior frame element and said interior frame element, said top surfaces of said interior cross member frame element and said interior frame element substantially coplanar and elevated relative to a top surface of said exterior frame element; and at least one of said cross member frame element and said interior frame element comprising a recessed surface extending from said coplanar surface, said recessed surface comprising a flame clearance gap".

Sparks neither describes nor suggests a cross member frame element including a top surface, and the cross member frame element extending between the exterior frame element and the interior frame element. Moreover, Sparks neither describes nor suggests a recessed surface extending from a coplanar surface, the recessed surface including a flame clearance gap. Nowhere does Sparks show a cross member. The area indicated by blue dashed lines by the Examiner is not a cross member. Sparks does not show a cross member extending between the exterior frame element (shown in green) and the internal frame element (shown in yellow). In addition, Sparks does not show a recessed surface extending from a coplanar surface, and the recessed surface including a flame clearance gap. The area indicated by orange cross-hatched lines by the Examiner is simply empty space between internal frame elements, as shown in Figure 2 of Sparks, and empty space underneath internal frame elements, as shown in Figure 3 of Sparks. In addition, Claim 11 further recites that recessed surface extends from a coplanar surface, and the recessed surface includes a flame clearance gap. Sparks does not show a recessed surface extending from a coplanar surface, and the

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recessed surface includes a flame clearance gap. For the reasons set forth above, Claim 11 is submitted to be patentable over Sparks.

Claims 14 and 16 depend, directly or indirectly, from independent Claim 11. When the recitations of Claims 14 and 16 are considered in combination with the recitations of Claim 11, Applicants submit that dependent Claims 14 and 16 are likewise patentable over Sparks.

Claim 21 depends from Claim 17, which recites a gas fired cooktop including "at least a first gas burner and a second gas burner; and a grate assembly surrounding said first gas burner and said second gas burner, said grate assembly comprising an interior frame element extending between said first gas burner and said second gas burner, said interior frame element comprising a cooking utensil surface and a flame clearance recessed portion extending from cooking utensil surface.

Sparks neither describes nor suggests a flame clearance recessed portion. Moreover, Sparks neither describes nor suggests the flame clearance recessed portion extending from a cooking utensil surface. Nowhere, does Sparks show a recessed surface. The area indicated by orange cross-hatched lines by the Examiner is simply empty space between internal frame elements, as shown in Figure 2 of Sparks, and empty space underneath internal frame elements, as shown in Figure 3 of Sparks. In addition, Claim 17 recites that the recessed surface extends from the cooking utensil surface. Sparks does not show a recessed surface extending from the cooking utensil supporting surface. For the reasons set forth above, Claim 17 is submitted to be patentable over Sparks.

Claim 21 depends indirectly from independent Claim 17. When the recitations of Claim 21 is considered in combination with the recitations of Claim 17, Applicants submit that dependent Claim 21 is likewise patentable over Sparks.

Claims 25 and 26 depends from Claim 22, which recites a gas fired cooktop including "a first gas burner and an adjacent second gas burner; a first grate section surrounding said first and second gas burners; a third gas burner and an adjacent fourth gas burner, said third



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and fourth gas burners adjacent said first and second gas burners; a second grate section surrounding said third and fourth gas burners; a bridge spacer grate section extending between said first grate section and said second grate section; a top surface of each of said first grate section, second grate section, and bridge spacer section comprising a substantially coplanar utensil supporting surface; and a recessed surface portion extending from said utensil supporting surface between each adjacent gas burner".

Sparks neither describes nor suggests at least one recessed surface portion. Moreover, Sparks neither describes nor suggests the recessed surface portion extending from a utensil supporting surface between adjacent gas burners. Nowhere, does Sparks show a recessed surface portion. The area indicated by orange cross-hatched lines by the Examiner is simply empty space between internal frame elements, as shown in Figure 2 of Sparks, and empty space underneath internal frame elements, as shown in Figure 3 of Sparks. In addition, Claim 22 further recites that the recessed surface portion extends from a utensil supporting surface between adjacent gas burners. Sparks does not show a recessed surface portion extending from a utensil supporting surface between adjacent gas burners. For the reasons set forth above, Claim 22 is submitted to be patentable over Sparks.

Claims 25 and 26 depend, directly or indirectly, from independent Claim 22. When the recitations of Claims 25 and 26 are considered in combination with the recitations of Claim 22, Applicants submit that dependent Claims 25 and 26 are likewise patentable over Sparks.

For the reasons set forth above, Applicants respectfully request that the Section 103 rejection of Claims 4, 14, 16, 21, 25, and 26 be withdrawn.

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In view of the foregoing amendments and remarks, all the claims now active in this application are believed to be in condition for allowance. Reconsideration and favorable action is respectfully solicited.

Respectfully Submitted,



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## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Cadima :  
Serial No.: 10/065,394 : Art Unit: 3743  
Filed: October 11, 2002 : Examiner: Ferko, Kathryn  
For: COOKTOP GRATE WITH :  
FLAME CLEARANCE :

## SUBMISSION OF MARKED UP CLAIMS

Mail Stop Non Fee Amendment  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

In furtherance of the response to the Office Action dated March 11, 2003 submitted herewith, Applicants hereby submit marked up versions of the amendments therein:

IN THE CLAIMS

6. (Once Amended) A grate assembly for a gas cooking appliance, said grate assembly comprising:

at least one exterior frame element;

at least one support finger extending from said exterior frame, said support finger comprising a top surface extending above said at least one exterior frame element;

at least one interior frame element comprising a top surface extending above said at least one exterior frame element, said top surface of said interior frame element substantially coplanar with said top surface of said support finger; and

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at least one recessed surface extending from said top surface of said interior frame element, said recessed surface defining a clearance for passage of a burner flame.

11. (Once Amended) A grate assembly for a gas cooktop, said grate assembly comprising:

at least one grate section comprising a substantially rectangular frame comprising:

at least one exterior frame element comprising a top surface;

at least one interior frame element comprising a top surface; and

a cross member frame element comprising a top surface, said cross member frame element extending between said exterior frame element and said interior frame element, said top surfaces of said interior cross member frame element and said interior frame element substantially coplanar and elevated relative to a top surface of said exterior frame element[,]; and

at least one of said cross member frame element and said interior frame element comprising a recessed surface extending from said coplanar surface, said recessed surface comprising a flame clearance gap.

17. (Once Amended) A gas fired cooktop comprising:

at least a first gas burner and a second gas burner[,]; and[:]

a grate assembly surrounding said first gas burner and said second gas burner, said grate assembly comprising an interior frame element extending between said first gas burner and said second gas burner, said interior frame element comprising a cooking utensil surface and a flame clearance recessed portion extending from cooking utensil surface.

22. (Once Amended) A gas fired cooktop comprising:

a first gas burner and an adjacent second gas burner;

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a first grate section surrounding said first and second gas burners;

a third gas burner and an adjacent fourth gas burner, said third and fourth gas burners adjacent said first and second gas burners;

a second grate section surrounding said third and fourth gas burners; [and]

a bridge spacer grate section extending between said first grate section and said second grate section; a top surface of each of said first grate section, second grate section, and bridge spacer section comprising a substantially coplanar utensil supporting surface; and

a recessed surface portion extending from said utensil supporting surface between each adjacent gas burner.

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